

REMARKS/ARGUMENTS

In paragraph 1 of the Office Action, it is asserted that two Information Disclosure Statements were filed, namely on March 4, 2002 and April 22, 2002. Applicant filed but one Information Disclosure Statement April 22, 2002, and there is nothing in applicant's file to indicate the filing of any paper on or about March 4, 2002.

Applicant filed formal drawings in the application April 24, 2002 and would appreciate confirmation of the receipt of and approval of the formal drawings.

In paragraph 2 of the Office Action, claims 2 and 12-33 are rejected under 35 U.S.C. § 112 as being indefinite. It is the examiner's position that the phrase "said pocket has a width and depth generally equal to the diameter of a chalk stick to be received therein" does not indicate the size of the pocket because the chalk stick is not being claimed in combination with the carrier. This rejection is respectfully traversed. In this respect, as is clearly set forth in the specification on page 1, lines 6-9, pastels, are available in a number of different diameters. The phrase referenced by the examiner in claim 2 makes it clear that the pockets in applicant's carrier correspond dimensionally to the diameter of a given chalk stick to be received therein. It is respectfully submitted that this phrase provides clarity and definiteness to claims 2 and 12-33 in this respect. Accordingly, withdrawal of the rejection under 35 U.S.C. § 112 is in order and is respectfully requested.

Claims 1, 2, 4, and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by patent 3,631,973 to Rode. This rejection is respectfully traversed. The rejected claims clearly set forth that applicant's carrier comprises a plurality of chalk stick pockets and that each of the pockets has end walls spaced apart in the direction between the sides of the body of the carrier and side walls spaced

apart in the direction between the ends of the carrier. Each of the pockets in Rode is continuous between the laterally opposite sides of his carrier. There are no end walls as required in claim 1. It is well accepted that for a prior art reference to anticipate claims in terms of 35 U.S.C. § 102, every element of the claim must be identically shown in the reference, and these elements must be arranged as recited in the claim. *In re Bond*, 15 USPQ 2d 1566, 1567 (CAFC 1990). Rode fails to show pockets having end walls as recited in the rejected claims. Therefore, Rode does not anticipate claims 1, 2, 4, and 12 under 35 U.S.C. § 102(b). Accordingly, withdrawal of the rejection and allowance of the claims is in order and is respectfully requested.

Claims 3 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rode in view of patent 6,253,922 to Hadden. Claims 3 and 13 are respectively dependent from independent claims 1 and 12 which distinguish from Rode as set forth above. Hadden discloses a foldable carpet sample book. It is not comprised of a body of flexible material, it is neither intended to nor capable of receiving and supporting chalk sticks, the sample receiving areas are slots into which the carpet samples slide and are supported in an inclined position, and the book is neither intended to be nor is it capable of being rolled. There is nothing in either Rode or Hadden alone to suggest the modification of Rode proposed by the examiner. It is respectfully submitted that in the absence of knowledge of applicant's disclosure one skilled in the art would find it neither suggested nor obvious to place the uranium pellets of Rode in individual pockets. Applicant's individual pockets are to protect very delicate chalk sticks so as to optimize the support thereof against breakage and to maintain the sticks against contact with one another as is clearly set forth on page 2 of the specification. Rode has no such concerns for pellets of uranium, nor does Hadden for his

carpet samples. It is respectfully submitted, therefor, that claims 3 and 13 patentably distinguish from Rode in view of Hadden and are allowable, whereby withdrawal of the rejection and allowance of the claims is respectfully requested.

Claims 5, 6 and 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Rode in view of patent 5,388,689 to Kroop, et al. Claims 5 and 6 are dependent from claim 1, and claim 15 is independent and includes the pocket structure limitations referenced above with regard to claim 1 and which distinguish from Rode for the reasons set forth herein. Kroop, et al. disclose what appears to be a rigid box enclosable in a foldable, fabric jacket. Kroop does not overcome the shortcomings of Rode nor do they suggest any modification of Rode in this respect. Indeed, one would have to remove the bottom of Rode's carrier and replace it with fabric, and there is absolutely nothing in Rode or Kroop, et al. to suggest such a modification of Rode. Accordingly, it is respectfully submitted that claims 5, 6 and 15 patentably distinguish from this combination of prior art and are allowable, whereby withdrawal of the rejection and allowance of the claims is requested.

Claims 7 and 8 stand rejected under 35 U.S.C. § 103 as being unpatentable over Rode in view of patent 5,320,223 to Allen and patent 5,524,765 to Gutentag. Claims 7 and 8 are dependent from claim 1 and distinguish from Rode for the reasons set forth hereinabove, including the foregoing reasons set forth with respect to claims 5, 6 and 15. In the absence of knowledge of applicant's disclosure, there is no basis in either Allen nor Gutentag for one to modify Rode so as to provide for the pockets thereof which are laterally continuous and open ended to be opened through the bottom part of the carrier and then covered with a separate material to provide the bottom. It is respectfully

submitted, therefore, that claims 7 and 8 patentably distinguish from the prior art and are allowable, whereby withdrawal of the rejection and allowance of the claims is respectfully requested.

Claims 9 and 10 stand rejected 35 U.S.C. § 103 as being unpatentable over Rode in view of Allen and Gutentag and further in view of Kroop, et al. Claims 9 and 10 are dependent from claim 1 through claim 7 and accordingly patentably distinguish from Rode for the reasons set forth hereinafter and from any modification of Rode which would be obvious or suggested from the other prior art references in absence of knowledge of applicant's disclosure. It is respectfully submitted, therefore, that claims 9 and 10 patentably distinguish from the prior art and are allowable, whereby withdrawal of the rejection and allowance of the claims is solicited.

Claim 11 stands rejected under 35 U.S.C. § 103 as being unpatentable over Rode in view of design 323,065 to Stricklin, et al. and patent 5,427,239 to Hunt which, while cited in the text of the Office Action, is not identified in the list of references cited. Claim 11 is dependent from claim 1 and distinguishes from Rode for the reasons set forth hereinabove in connection with claim 1, and neither of the patents to Stricklin or Hunt, which disclose pouches having straps associated therewith, suggests or makes obvious any modification of Rode which would overcome the shortcomings thereof. Accordingly, claim 11 patentably distinguishes from the prior art and is allowable, whereby withdrawal of the rejection and allowance thereof is respectfully requested.

Claim 14 stands rejected under 35 U.S.C. § 103 as being unpatentable over Rode and Hadden and further in view of Stricklin, et al. and Hunt. Claim 14 is dependent from claim 12 which distinguishes from Rode for the reasons set forth hereinabove, and none of the references to Hadden, Stricklin, et al. and Hunt overcome the shortcomings of Rode. Accordingly, it is respectfully

submitted that claim 14 patentably distinguishes from the prior art and is allowable, whereby withdrawal of the rejection thereof and allowance of the claim is requested.

Claim 16 stands rejected under 35 U.S.C. § 103 as being unpatentable over Rode in view of Kroop, et al. and further in view of Hadden. Claim 16 is dependent from claim 15 and accordingly distinguishes from Rode and Kroop, et al. for the reasons set forth hereinabove in connection with claim 15. Further, the reference to Hadden does not overcome the shortcomings of Rode and Kroop, et al., whereby claim 16 patentably distinguishes from the prior art and is allowable. Withdrawal of the rejection and allowance of the claim is therefore respectfully requested.

Claims 17-19 are rejected under 35 U.S.C. § 103 as being unpatentable over Rode, Kroop, et al. and Hadden and further in view of Stricklin, et al. and Hunt. Claims 17-19 are dependent from claim 15 and, therefore, distinguish from Rode for the reasons pointed out hereinabove. None of the patents cited in combination with Rode, Kroop, et al. and Hadden against claims 17-19 overcome the shortcomings thereof in connection with claim 15. Accordingly, claims 17-19 patentably distinguish from the prior art and are allowable.

Claims 20, 25 and 29, all of which are independent, stand rejected under 35 U.S.C. § 103 as being unpatentable over Rode in view of Kroop, et al., Allen and Gutentag. Claims 20, 25 and 29 each include the structural pocket size limitation referenced hereinabove in connection with claims 1 and 15, whereby these claims distinguish from Rode for the reasons set forth hereinabove with regard to the latter claims. Moreover, claim 20 recites sheets of a polymeric material and fabric on the bottom of the body, and claims 25 and 29 respectively recite the polymeric material and fabric on the bottom of the body. Further, for the reasons set forth above with regard to claims 5-8 and

15, Kroop, et al., Allen and Gutentag, either alone or in combination, do not suggest any modification of Rode, et al. which would provide the structures defined in claims 20, 25 and 29. Therefore, claims 20, 25 and 29 patentably distinguish from the prior art and are allowable.

Claims 21, 26 and 30 stand rejected under 35 U.S.C. § 103 as being unpatentable over Rode, Kroop, et al., Allen, and Gutentag, and further in view of Hadden. Claim 21 is dependent from claim 20, claim 26 is dependent from independent claim 25, and claim 30 is dependent from independent claim 29. The foregoing independent claims distinguish from the art as set forth above, whereby claims 21, 26 and 30 patentably distinguish therefrom for the same reasons. Moreover, the patent to Hadden does not suggest any modification of this art which would overcome the shortcomings thereof. Accordingly, claims 21, 26 and 30 patentably distinguish from the prior art and are allowable, whereby withdrawal of the rejection and allowance of these claims is requested.

Claims 22-24, 27, 28, and 31-33 stand rejected under 35 U.S.C. § 103 as being unpatentable over Rode, Kroop, et al. and Hadden and further in view of Stricklin, et al. and Hunt. Claims 22-24 are dependent from claim 20, claims 27 and 28 are dependent from claim 25, and claims 31-33 are dependent from claim 29. Accordingly, these claims patentably distinguish from Rode, Kroop, et al. and Hadden for the reasons set forth hereinabove in connection with their parent claims, and in the absence of knowledge of applicant's disclosure, none of the prior art patents cited in combination therewith with respect to claims 22-24, 27, 28, and 31-33 suggest any modification of Rode, Kroop, et al. and Hadden which would overcome the shortcomings thereof. It is respectfully submitted therefore that these claims patentably distinguish from the prior art and are allowable, whereby withdrawal of the rejection and allowance of the claims is requested.

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In summary, applicant has traversed all of the rejections of claims 1-33 and respectfully submits that claims 1-33 are allowable, whereby the application is in condition for allowance. Reconsideration and allowance are therefor respectfully solicited.

Respectfully submitted,

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